IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CWP No.19737 of 2005**

DATE OF DECISION: October 13, 2006

MURLI DHAR ...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.
HON'BLE MRS. JUSTICE NIRMAL YADAV.

PRESENT: MR. SHAILENDRA JAIN, ADVOCATE, FOR THE PETITIONER.

MR.H.S.HOODA, ADVOCATE GENERAL, HARYANA,
WITH MR.SANJIV BANSAL, ADDL.A.G.HARYANA,
FOR RESPONDENT NOS.1 TO 4.

MR.ARUN JAIN, ADVOCATE, FOR RESPONDENT NO.6.

ASHUTOSH MOHUNTA, J.

The prayer made in this petition under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari quashing the notification dated 15.11.2002 under Section 4 (Annexure P2) as well as the notification dated 12.11.2003 (Annexure P4) under Section 6 of the Land Acquisition Act, 1894 (for short 'the Act') whereby the land of the petitioner measuring 8 Biswas 10 Biswansis situated in the revenue estate of village Khandasa, Tehsil and District Gurgaon, has been acquired.

In short the case of the petitioner is that he is engaged in business activities under the name and style of M/s Bansal Khad Store, Bassi Road, Gurgaon and he had purchased the land in dispute to install a factory for

agricultural tools vide sale deed dated 7.3.2001. The State of Haryana issued notification dated 15.11.2002 under Section 4 of the Act intending to acquire the land for the purpose of development of 'integrated complex' for industrial, institutional, commercial and recreational and other public utilities in villages Begumpur Khatola, Narsinghpur and Khandsa, Tehsil and District Gurgaon. The petitioner, however, did not file objections under Section 5-A of the Act as he could not come to know of the issuance of the notification as the same was not properly published. Thereafter, the respondents issued declaration under Section 6 of the Act vide notification dated 12.11.2003 whereby the land of the petitioner measuring 8 Biswas 10 Biswansis along with the land belonging to other owners has been acquired.

It has been contended by the learned counsel for the petitioner that the action of the respondents is discriminatory in nature which is hit under Article 14 of the Constitution inasmuch as the land belonging to respondent No.6 Sunil Satija, which is in the close vicinity of the land of the petitioner, has been released. However, the land belonging to the petitioner has been acquired. The counsel has placed reliance on a catena of authorities in support of the contentions raised by him. The case-law cited by him is State of Haryana and others v. Gyan Chand Madhok, 1972 Revenue Law Reporter 410; Civil Appeal No.1145 of 2003 (Jagdish Chand & Anr. v. State of Haryana & Anr.); Devinder Kumar v. State of Punjab and others, 1995(2) P.L.J. 438; Sube Singh v. State of Haryana, 2001(4) R.C.R. 258; and Chandra Bansi Singh and others v. State of Bihar and others, AIR 1984 Supreme Court 1767.

A detailed written statement has been filed on behalf of respondent Nos.1 and 3. In para 6 of the preliminary objections it has been

stated as under:-

> *"That though the petitioner did not file the petition earlier but number of Civil Writ Petitions were filed in this Hon'ble Court by the landowners against acquisition of their land by the State Government. In order to consider the cases for release of land under acquisition, State Government constituted a Sub-Committee consisting of Managing Director, Haryana Financial Corporation and Director of Industries, Haryana vide notification No.32/1/2004-4IBI dated 13.2.2004. The Committee invited representations from the petitioners through Industrial Associations of Gurgaon and by giving press note in the leading newspapers of the area. But the petitioners did not avail the opportunity and not filed any representation for consideration of the sub-committee. The committee however after giving personal hearing to the petitioner at Gurgaon followed by site visit on 30.4.2004 of the landowners who had filed their representation, submitted its report, which approved by the State Government. The recommendations of Sub-Committee were communicated to the concerned petitioners vide letter dated 14.8.2004 under registered/speed post."*

In preliminary objection No.11 of the written statement it has been stated that the High Powered Committee recommended the land in dispute for acquisition as it was lying vacant.

After hearing the learned counsel for the parties and on going through the case file, we are of the considered view that the case-law cited

by the learned counsel for the petitioner is not applicable to the facts and circumstances of the present case. In the authorities relied upon by the learned counsel for the petitioner the State Government had acquired the land where constructions were already existing at the time of issuance of notification under Section 4 of the Act and released the property of some landowners without any cogent reason and thereby violating the provisions of Article 14 of the Constitution. Here in the present case the site acquired is a vacant piece of land which is required for the public purpose mentioned in the notification. Admittedly, the petitioner did not file any objection under Section 5-A of the Act. Even before acquiring the land, the Government had constituted a High Powered Committee to consider the representations of the aggrieved parties. The petitioner did not file any representation. However, only after considering the pros and cons of the acquisition the Committee had recommended the acquisition of the land in question. Thus, the petitioner has been given full opportunity of hearing before making acquisition of his land. Moreover, it has been held by their Lordships of the Supreme Court in the case reported as M/s Anand Buttons Ltd. v. State of Haryana and another, 2005(1) RCR (Appeals) 224, as under:-

> *"……It is trite law that not only land but also structure on land can be acquired under the Act. As to whether in a given set of circumstances certain land should be exempted from acquisition only for the reason that some construction had been carried out, is a matter of policy, and not law. If after considering all the circumstances, the State Government has taken the view that exemption of the lands of the appellants*

would render askew the development scheme of the industrial estate, it is not possible for the High Court or this Court to interfere with the satisfaction of the concerned authorities. We see no ground on which the appellants could have maintained that their lands should be exempted from acquisition. Even if three of the parties had been wrongly exempted from acquisition, that gives no right to the appellants to seek similar relief...."

In view of the above, we do not find any merit in this petition. It is, accordingly, dismissed. There shall, however, be no order as to costs. The interim order passed by this Court stands vacated.

(ASHUTOSH MOHUNTA)
JUDGE

October 13, 2006
Gulati

(NIRMAL YADAV)
JUDGE